

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2876 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

YOGESH SWAMINARAYAN

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioner

M/S MG DOSHIT & CO for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER

Date of decision: 21/11/97

ORAL JUDGEMENT

This petition is filed by the petitioner for quashing and setting aside a resolution dt. May 8, 1986 and a consequential office order dt. May 15, 1986 being illegal, unconstitutional and violative of Arts.14 and 16 of the Constitution of India.

By resolution dt. May 8, 1986, passed by the

Government of Gujarat, Health and Family Welfare Department, it was decided by the Government to terminate with immediate effect, services of the Tutor, who were appointed on purely ad-hoc and temporary basis. The petitioner was one of them. He was appointed as a Tutor in Orthopaedic at B.J.Medical College, Ahmedabad. Consequential order had come to be passed on 16th May 1986 by Dean of B.J.Medical College intimating about the resolution passed by the Government and terminating his services of the petitioner by an office order.

When the matter was placed for admission, notice was issued and ad.interim relief was granted directing the respondent authorities to permit the petitioner to work as Tutor. On October 17, 1988, Rule was issued and interim relief was ordered to continue till further orders. To day the matter is called out for final hearing.

Mr.Girish Patel, learned counsel for the appellant submitted that the action of the respondent authorities was arbitrary, unreasonable and violative of Art.14 , 16 and 21 of the Constitution of India. He submitted that services of the petitioner could not have been terminated except in accordance with law and when the petitioner was performing his functions and discharging his duties efficiently, such action could not have been taken and that too without issuing notice, calling for explanation and/or observing principles of natural justice. He submitted that in any case, when the order was stayed in 1986 and even to day the petitioner is in service, there is no need to terminate his services now and such action may not be allowed.

In view of the facts and circumstances of the case, in my opinion, it is not necessary to decide the question as to whether the order in question can be said to be arbitrary, unreasonable or violative of fundamental rights of the petitioner. Services of the petitioner were sought to be terminated in May 1986 and interim relief was granted and is operative till then. It is, therefore, in the interest of justice that the said order may not be treated as operative as on to day. If the authorities think and are of the opinion that the services of the petitioner are no longer required even now, it is open to them to pass fresh order in accordance with law. If such action is taken, it is open to the petitioner to take appropriate proceedings against the said action.

For the foregoing reasons, the petition requires

to be disposed of and is accordingly disposed of. Rule
discharged with no order as to costs. Interim relief
vacated.

Dt. 21.11.1997. (C.K.THAKKER J.)